



**State of New Hampshire  
DEPARTMENT OF ENVIRONMENTAL SERVICES**

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095  
(603) 271-2900 FAX (603) 271-2456



Vincent Rizzo  
6 Hemlock Street  
Plaistow, New Hampshire 03865

**LETTER OF DEFICIENCY**  
**WD WQE 03-04**  
**May 12, 2003**

**Re: Site Specific Permit #WPS-6038**  
**Rose Petal Estates (a.k.a. Somerset Realty Trust)**  
**Muddy Pond Road, Kensington, New Hampshire**  
**Kensington Tax Map 5, Lots 35 & 36**

Dear Mr. Rizzo

On April 23, 2003, personnel from the Department of Environmental Services ("DES") and personnel representing the Town of Kensington conducted an inspection for the above referenced property. The purpose of the inspection was to determine compliance with RSA 485-A:17, Water Management and Protection Law and NH Code of Administrative Rules Ws 415.

During the inspection, the following deficiencies on the site were documented:

- 1 The construction sequence is not in accordance with the approved plans.  
Specifically:
  - a. The contractor has failed to schedule work such that any disturbed construction area is stabilized within 30 days of initial disturbance.
  - b. The contractor has failed to stabilize the outlet and treatment swale located at station 0+50L before directing water to it.
  - c. The contractor has failed to stabilize the detention pond #1 located at station 1+00R before directing water to it.
  - d. The contractor has failed to stabilize the outlet from detention pond #2 located at the end of the cul-de-sac before directing water to it.
  - e. The contractor has failed to stabilize the detention pond #2 before directing water to it.

Temporary erosion control measures not in place and/or maintained as required by the approved plans. Specifically:

- a. The contractor has failed to stabilize slopes and disturbed areas throughout the entire project area.

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- b. Excessive sediments have accumulated in the outlet and treatment swale located at station 0+50L.
- c. Excessive sediments have accumulated upslope of all of the stone check dams throughout the construction site.
- d. Excessive sediments have accumulated in all of the catch basins throughout the construction site.
- e. Excessive sediments have accumulated in the silt fence from station 11+00R to station 14+00R.
- f. Excessive sediments have accumulated in the silt fence at the toe of slope located at the end of the cul-de-sac.
- g. Excessive sediments have accumulated located at the northern portion of site adjacent to the existing pond in wetlands.
- h. Silt fence is not installed at the toe of the slope located at the northwestern portion of the site at the end of the cul-de-sac.

Contractor has failed to construct the adequate number of stone check dams throughout the construction site in accordance with the approved plans.

3. Construction not in accordance with approved plans. Specifically,
- a. Contractor has exceeded permit limits at the end of the cul-de-sac by constructing a fill slope beyond the limit of work.
  - b. Contractor has failed to construct the outlet and treatment swale located at station 0+50L in accordance with approved plans.
  - c. Contractor has failed to construct detention pond #1 located at station 1+00R in accordance with approved plans.
  - d. Contractor has failed to construct the outlet from detention pond #2 located at the end of the cul-de-sac in accordance with approved plans.
  - e. Contractor has constructed a drainage ditch at the toe of the existing fill slope located at the end of the cul-de-sac channeling turbid water downslope to an existing wetland.

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**In response, you are requested to take the following actions:**

- Stabilize all of the slopes/disturbed areas that are at final grade throughout the entire project area by placing loam, seeding, and hay mulch, with 85% to 90% vegetative cover, in accordance with approved plans by **May 30, 2003**.
2. Stabilize all of the temporarily disturbed areas with seeding and hay mulch, with the result of 85% to 90% vegetative cover, that have been disturbed greater than 30 days by **May 16, 2003**.
  3. Remove sediments that have accumulated in the outlet and treatment swale located at station 0+50L by **May 16, 2003** by hand or mechanical means as necessary without causing further impact or water quality violations.
  4. Construct the outlet and treatment swale located at station 0+50L in accordance with approved plans by **May 30, 2003**. Do not direct water to the outlet and treatment swale until area is stabilized.
  5. Construct detention pond #1 located at station 1+00R in accordance with approved plans by **May 30, 2003**. Do not direct water to the detention pond until the area is stabilized.
  6. Stabilize detention pond #2 located at the end of the cul-de-sac by **May 16, 2003**.
  7. Remove sediments that have accumulated upslope of all of the stone check dams throughout the construction site by **May 16, 2003** by hand or mechanical means as necessary without causing further impact or water quality violations.
  8. Remove sediments that have accumulated in all of the catch basins throughout the construction site by **May 16, 2003**.
  9. Remove sediments that have accumulated in the silt fence from station 11+00R to station 14+00R by **May 16, 2003** by hand or mechanical means as necessary without causing further impact or water quality violations.
  10. Remove sediments that have accumulated in the silt fence at the toe of the slope located at the end of the cul-de-sac by **May 16, 2003** by hand or mechanical means as necessary without causing further impact or water quality violations.

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1. Remove sediments that have accumulated located at the northern portion of the site adjacent to the existing pond by hand by **May 16, 2003**.
12. Install silt fence at the toe of the slope located at the northwestern portion of the site at the end of the cul-de-sac in accordance with approved plans by **May 16, 2003**.
13. Construct the adequate number of stone check dams throughout the construction site in accordance with the approved plans by **May 16, 2003**.
14. Contact the Water Quality Engineering Section – (“Site Specific”) for review of the site disturbance beyond permit limits located at the end of the cul-de-sac by **May 16, 2003**.
15. Construct the outlet from detention pond #2 located at the end of the cul-de-sac in accordance with approved plans by **May 30, 2003**.
16. Redirect water to detention pond #2 away from the constructed ditch at the toe of the existing fill slope located at the end of the cul-de-sac in accordance with approved plans and fill in the constructed ditch by **May 30, 2003**.

DES also requests that a written status report for the above-mentioned items be submitted by **May 30, 2003**. The report may be addressed as follows:

David Price, Compliance Investigator  
Wetlands Bureau/Site Specific  
Department of Environmental Services  
360 Corporate Drive  
Suite 2  
Portsmouth, NH 03801

RSA 482-A, the New Hampshire Wetlands Law and RSA 485-A:17, Water Management and Protection Law were enacted to protect and preserve wetlands, surface waters and alteration of terrain activities from unregulated despoliation.

Failure to comply with RSA 482-A and RSA 485-A:17 will result in enforcement by DES, including but not limited to the issuance of fines, administrative orders, or referral to the New Hampshire Office of the Attorney General for prosecution of civil or criminal penalties. If an order is issued to you, it may also be recorded with the Registry of Deeds as an encumbrance against your property. In addition, DES personnel may conduct another inspection at a later date to determine whether you have come into and are maintaining full compliance with the applicable statute and rules. Issuance of this letter shall not preclude further enforcement by DES.

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Should you have any questions regarding this letter, please contact David Price at 433-6183 or e-mail him at [dprice@des.state.nh.us](mailto:dprice@des.state.nh.us).

Sincerely,

A handwritten signature in black ink is written over the word "COPY", which is printed in large, bold, black capital letters.

Dori Wiggin  
Coastal Supervisor  
DES Wetlands Bureau

DAW/dap

CERTIFIED MAIL # 7002 2410 0001 6271 5686

cc: Rene Pelletier, Manager, Land Resources Management Program  
Mark Harbaugh, DES Legal Unit  
Ridge Mauck, DES Water Quality Engineering Section  
Kensington Conservation Commission  
Kensington Planning Board  
Kensington Board of Selectmen  
Roger Roy, P.E., Downeast Engineering  
David Hoyt, Al Hoyt & Sons